

**REMARKS**

Claims 1-4, 6-13 and 15-18 remain pending in the application. Applicant respectfully requests reconsideration of all pending claims in light of the amendments and remarks presented herein.

**Claim Rejections Under 35 U.S.C. § 103**

Claims 1, 6, 8-10 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,757,537 to Choi in view of U.S. Patent No. 5,872,775 to Saints ("Saints") and further in view of U.S. Patent No. 6,278,781 to Rhoads.

Claims 1, 6, 8-10 and 15 have been amended to recite "a message carrying an indicator of the energy value, the identity of the target destination of the payload data, the transmission rate of the subpacket and the number of subpackets to carry the full amount of the data payload". Support for this amendment may be found in paragraph 34 of the originally filed specification. The claims further recite "wherein the energy value is a traffic-to-pilot ratio".

The Office Action avers that Saints discloses a message carrying a full rate frame power to pilot (traffic to pilot ratio). (Office Action, Section 3, Lines 18-20). The Office also states that Saints discloses that a rate processor 46 that is used to compute a frame ratio of power. (Office Action Section 3 Lines 22-23).

Saint's rate processor 46 determines the data rate (transmission rate) using the power levels of the demodulated pilot signal and the data signal. (Saints, Column 5, Lines 47-50). The rate processor 46 computes  $P_{\text{traffic}}/P_{\text{pilot}}$  and compares it with  $P_{\text{full rate}}/P_{\text{pilot}}$  to determine the transmission rate. (Saints, Column 5, Lines 50-62). Notably this computation would be unnecessary and Saint's rate processor 46 would not be needed if Saint's message carried the transmission rate.

In contrast, Applicant's invention includes a message carrying the transmission rate and therefore it does not need a rate processor like Saint's rate processor 46. Thus Saints fails to teach the

limitation "a message carrying an indicator of the energy value, the identity of the target destination of the payload data, the transmission rate of the subpacket and the number of subpackets to carry the full amount of the data payload".

Choi and Rhoads like Saints also fail to teach this limitation making the claims patentable over Choi in view of Saints and further in view of Rhoads.

Claims 3, 4, 12 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Choi in view of Saints and Rhoads and further in view of Guo.

Claims 7 and 16-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Choi in view of Saints and Rhoads and further in view of U.S. Patent No. 6,643,272 to Moon.

Moon and Guo like Saints, Rhoads and Choi fail to disclose "a message carrying an indicator of the energy value, the identity of the target destination of the payload data, the transmission rate of the subpacket and the number of subpackets to carry the full amount of the data payload" making the claims patentable over the above cited combinations.

**CONCLUSION**

Applicant submits that the application is now in condition for allowance and respectfully requests that the application be passed to issue.

Respectfully submitted,

Dated March 4, 2009

By: James K. O'Hare  
James K. O'Hare, Reg. No. 56,574  
(858) 651-4186

QUALCOMM Incorporated  
5775 Morehouse Drive  
San Diego, California 92121  
Telephone: (858) 658-5787  
Facsimile: (858) 658-2502